

AMENDED IN ASSEMBLY FEBRUARY 9, 2006

AMENDED IN SENATE APRIL 20, 2005

AMENDED IN SENATE APRIL 4, 2005

SENATE BILL

No. 397

Introduced by Senator Escutia

(Coauthors: Senators Alquist, Kuehl, Romero, and Vincent)

(Coauthors: Assembly Members Laird and Pavley)

February 17, 2005

An act to ~~add Section 11174.11 to the Penal Code, relating to elder death;~~ amend Sections 480.2, 483, and 532 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 397, as amended, Escutia. ~~Elder death review teams. Property tax: change in ownership: notice: escape assessments.~~

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. Existing property tax law specifies those circumstances in which the transfer of ownership interests in a corporation, partnership, limited liability company, or other legal entity results in a change in ownership of the real property owned by that entity, and requires a person or entity that obtains a controlling or majority ownership interest in a legal entity, or an entity that makes specified transfers of ownership interests in the legal entity, to

file a change in ownership statement, as specified, with the State Board of Equalization within 45 days of specified transactions, or whenever requested by the board. Existing law imposes a penalty of 10% of the taxes owed to the county on a parcel of real property if an assessee fails to file a change in ownership statement with the board within 45 days of a board request.

This bill would modify the provisions of that statement to specify that the county assessor, based on the information in his or her possession, shall estimate the value of, and reassess, the real property owned by an entity in its jurisdiction if the entity fails to respond to the State Board of Equalization's request for information, as specified. This bill would also authorize a county board of supervisors to abate the 10% penalty if the failure to file the change in ownership statement within the prescribed time period was due to reasonable cause, the person or legal entity has subsequently filed a change of ownership statement with the State Board of Equalization, as provided, and the person or legal entity has filed with the county board of supervisors written application for abatement of the penalty no later than 60 days after the date on which the person or legal entity was notified of the penalty, as provided.

Existing property tax law provides for escape assessments to be made on property outside the regular assessment period and requires that certain notices, in a form prescribed by the State Board of Equalization, of those assessments be given to assesses.

This bill would clarify that, in the case where property has escaped taxation, in whole or in part, or has been underassessed, following a change in ownership or change in control, as provided, an escape assessment may be made for each year in which the property escaped taxation or was underassessed, if a change in ownership statement, as required, was not filed within 45 days of a written request by the State Board of Equalizations.

~~Existing law authorizes counties to establish an interagency elder death team to assist local agencies in identifying and reviewing suspicious elder deaths and facilitating communication among persons who perform autopsies and the various persons and agencies involved in elder abuse or neglect cases.~~

~~This bill would require every skilled nursing facility and residential care facility within a county that has a county elder death review team to notify, as specified, the chair or chair designee of the team via fax~~

~~or e-mail whenever there is a death of an elderly resident at the facility.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 **SECTION 1.** *Section 480.2 of the Revenue and Taxation Code*
2 *is amended to read:*

3 480.2. (a) Whenever there is a change in ownership of any
4 corporation, partnership, limited liability company, or other legal
5 entity, as defined in subdivision (d) of Section 64, a signed
6 change in ownership statement as provided in subdivision (b)
7 shall be filed by such corporation, partnership, limited liability
8 company, or other legal entity with the board at its office in
9 Sacramento. The statement shall list all counties in which the
10 corporation, partnership, limited liability company, or legal entity
11 owns real property.

12 (b) The change in ownership statement required pursuant to
13 subdivision (a) shall be declared to be true and under penalty of
14 perjury and shall give such information relative to the ownership
15 interest acquisition transaction as the board shall prescribe after
16 consultation with the California Assessors' Association. The
17 information shall include, but not be limited to, a description of
18 the property owned by the corporation, partnership, limited
19 liability company, or other legal entity, the parties to the
20 transaction, the date of the ownership interest acquisition, and a
21 listing of the "original coowners" of the corporation, partnership,
22 limited liability company, or other legal entity prior to the
23 transaction. The change in ownership statement shall not include
24 any question which is not germane to the assessment function.
25 The statement shall contain a notice that is printed, with the title
26 in at least 12-point boldface type and the body in at least 8-point
27 boldface type, in the following form:

28
29 "Important Notice"

30
31 "The law requires any corporation, partnership, limited liability
32 company, or other legal entity owning real property in California
33 subject to local property taxation and transferring shares or other

1 ownership interest in such legal entity which constitute a change
2 in ownership pursuant to subdivision (d) of Section 64 of the
3 Revenue and Taxation Code to complete and file a change in
4 ownership statement with the State Board of Equalization at its
5 office in Sacramento. The change in ownership statement must
6 be filed within 45 days from the date that shares or other
7 ownership interests representing cumulatively more than 50
8 percent of the total control or ownership interests in the entity are
9 transferred by any of the original coowners in one or more
10 transactions. The law further requires that a change in ownership
11 statement be completed and filed whenever a written request is
12 made therefor by the State Board of Equalization, regardless of
13 whether a change in ownership of the legal entity has occurred.
14 The failure to file a change in ownership statement within 45
15 days from the date of a written request by the *State* Board of
16 Equalization results in a penalty of 10 percent of the taxes
17 applicable to the new base year value reflecting the change in
18 ownership of the real property owned by the corporation,
19 partnership, limited liability company, or legal entity (or 10
20 percent of the current year's taxes on that real property if no
21 change in ownership occurred). This penalty will be added to the
22 assessment roll and shall be collected like any other delinquent
23 property taxes, and be subject to the same penalties for
24 ~~nonpayment.~~ *nonpayment. If, after written request by the*
25 *assessor, the corporation, partnership, limited liability company,*
26 *or other legal entity, required by law to file the change in*
27 *ownership statement, fails to comply with any law for furnishing*
28 *required information, the assessor, based upon information in his*
29 *or her possession, shall estimate the value of the property and,*
30 *based upon this estimate, promptly assess the property."*

31 (c) In the case of a corporation, the change in ownership
32 statement shall be signed either by an officer of the corporation
33 or an employee or agent who has been designated in writing by
34 the board of directors to sign such statements on behalf of the
35 corporation. In the case of a partnership, limited liability
36 company, or other legal entity, the statement shall be signed by
37 an officer, partner, manager, or an employee or agent who has
38 been designated in writing by the partnership, limited liability
39 company, or legal entity.

1 (d) No person or entity acting for or on behalf of the parties to
2 a transfer of real property shall incur liability for the
3 consequences of assistance rendered to the transferee in
4 preparation of any change in ownership statement, and no action
5 may be brought or maintained against any such person or entity
6 as a result of such assistance.

7 Nothing in this section shall create a duty, either directly or by
8 implication, that such assistance be rendered by any person or
9 entity acting for or on behalf of parties to a transfer of real
10 property.

11 (e) The board or assessors may inspect any and all records and
12 documents of a corporation, partnership, limited liability
13 company, or legal entity to ascertain whether a change in
14 ownership as defined in subdivision (d) of Section 64 has
15 occurred. The corporation, partnership, limited liability company,
16 or legal entity shall upon request, make such documents available
17 to the board during normal business hours.

18 *SEC. 2. Section 483 of the Revenue and Taxation Code is*
19 *amended to read:*

20 483. (a) If the assessee establishes to the satisfaction of the
21 county board of supervisors that the failure to file the change in
22 ownership statement within the time required by subdivision (a)
23 of Section 482 was due to reasonable cause and not due to willful
24 neglect, and has filed the statement with the assessor, the board
25 of supervisors may order the penalty abated, provided the
26 assessee has filed with the board of supervisors written
27 application for abatement of the penalty no later than 60 days
28 after the date on which the assessee was notified of the penalty.

29 If the penalty is abated it shall be canceled or refunded in the
30 same manner as an amount of tax erroneously charged or
31 collected.

32 (b) The provisions of subdivision (a) shall not apply in any
33 county in which the board of supervisors adopts a resolution to
34 that effect. In that county the penalty provided for in subdivision
35 (a) of Section 482 shall be abated if the assessee files the change
36 of ownership statement with the assessor no later than 60 days
37 after the date on which the assessee was notified of the penalty.

38 If the penalty is abated it shall be canceled or refunded in the
39 same manner as an amount of tax erroneously charged or
40 collected.

(c) If a person or legal entity establishes to the satisfaction of the *county board of supervisors* that the failure to file the change in ownership statement within the time required by subdivision (b) of Section 482 was due to reasonable cause and not due to willful neglect, and has filed the statement with the ~~board, the board may recommend to~~ *State Board of Equalization*, the county board of supervisors *may order* that the penalty be abated, provided the person or legal entity has filed with the *county board of supervisors* written application for abatement of the penalty no later than 60 days after the date on which the person or legal entity was notified of the penalty *pursuant to Section 534*.

A county board of supervisors may adopt an ordinance or resolution authorizing the assessor to abate the penalty provided for in subdivision (b) of Section 482.

If the penalty is abated ~~by the board of supervisors~~, it shall be canceled or refunded in the same manner as an amount of tax erroneously charged or collected.

SEC. 3. Section 532 of the Revenue and Taxation Code is amended to read:

532. (a) Except as provided in subdivision (b), any assessment made pursuant to either Article 3 (commencing with Section 501) or this article shall be made within four years after July 1 of the assessment year in which the property escaped taxation or was underassessed.

(b) (1) Any assessment to which the penalty provided for in Section 504 must be added shall be made within eight years after July 1 of the assessment year in which the property escaped taxation or was underassessed.

(2) Any assessment resulting from an unrecorded change in ownership for which either a change in ownership statement, as required by Section 480 or a preliminary change in ownership report, as required by Section 480.3, is not timely filed with respect to the event giving rise to the escape assessment or underassessment shall be made within eight years after July 1 of the assessment year in which the property escaped taxation or was underassessed. For purposes of this paragraph, an “unrecorded change in ownership” means a deed or other document evidencing a change in ownership that was not filed with the county recorder’s office at the time the event took place.

(3) Notwithstanding paragraphs (1) and (2), in the case where property has escaped taxation, in whole or in part, or has been underassessed, following a change in ownership or change in control and either the penalty provided for in Section 503 must be added or a change in ownership statement, as required by Section 480.1 or 480.2 was not filed *timely* with respect to the event giving rise to the escape assessment or underassessment, an escape assessment shall be made for each year in which the property escaped taxation or was underassessed.

(4) For purposes of this subdivision, “timely” means 45 days from the date of a written request by the State Board of Equalization.

(c) For purposes of this section, “assessment year” means the period defined in Section 118.

SECTION 1. ~~Section 11174.11 is added to the Penal Code, to read:~~

~~11174.11. (a) Every skilled nursing facility, as defined in subdivision (c) of Section 1250 of the Health and Safety Code, and residential care facility, as defined in subdivision (j) of Section 1568.01 of the Health and Safety Code, within a county that has a county elder death review team shall notify the chair or chair designee of the team via fax or e-mail whenever there is a death of an elderly resident of the facility.~~

~~(b) The notification shall be made as soon as possible, but no later than 24 hours, after the death of the resident.~~

~~(c) The notification shall be made on a form created by the elder death review team, and shall include the resident’s name, gender, date of birth, the date and location of the resident’s death, whether there was a “do not resuscitate (DNR)” order or advanced directive in place for the patient, and whether the elder was receiving hospice care.~~

~~(d) The State Department of Health Services and the State Department of Social Services shall monitor compliance with this section~~